

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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S.J., <i>individually and on behalf of K.H.</i> ,	:	
Plaintiff,	:	
	:	
-against-	:	20 Civ. 1922 (LGS)
	:	
	:	<u>AMENDED ORDER</u> ¹
NEW YORK CITY DEPARTMENT OF	:	
EDUCATION,	:	
Defendant.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, by the Opinion and Order dated January 12, 2021 (the “Opinion”), the Court adopted as modified the October 3, 2020, Report and Recommendation (the “Report”) and awarded Plaintiff attorneys’ fees in the amount of \$30,728.00 and costs in the amount of \$582.76, for a total of \$31,310.76 plus post-judgment interest calculated at the applicable statutory rate. Following the Opinion, Plaintiff submitted an invoice for fees associated with preparing objections to the Report, along with supportive billing records (Dkt. No. 84), requesting an additional \$2,934.00 based on the reasonable hourly rates as previously determined in the Opinion. Defendant was directed to state its objections, if any, to modifying the award to include the additional amount requested (Dkt. No. 85). Defendant filed its objections stating that Plaintiff’s request for compensation should be substantially reduced if not denied in its entirety (Dkt. No. 86);

WHEREAS, as explained in the Opinion, courts may exercise discretion to award fees for hours that are not “excessive, redundant, or otherwise unnecessary” in light of the litigation. *Cf.*

¹ This Amended Order corrects a typographical error in the Order dated January 25, 2021, at Dkt. No. 87. The final paragraph incorrectly referred to the January 12, 2021, Opinion and Order as dated “January 21, 2021.”

Hensley v. Eckerhart, 461 U.S. 424, 434 (1983); accord *C.B. v. New York City Dep't of Education*, 2019 WL 3162177, at *9 (S.D.N.Y. 2019). The “essential goal in shifting fees . . . is to do rough justice.” *Fox v. Vice*, 563 U.S. 826, 838 (2011). The determination of fees “should not result in a second major litigation.” *Id.* “If the fee claims are exorbitant or the time devoted to presenting them is unnecessarily high, the judge may refuse further compensation or grant it sparingly.” *Gagne v. Maher*, 594 F.2d 336, 344 (2d Cir. 1979), *aff'd*, 448 U.S. 122 (1980); accord *O.R. v. New York City Dept. of Educ.*, 340 F. Supp. 3d 357, 371 (S.D.N.Y. 2018). “[A] district court may exercise its discretion and use a percentage deduction as a practical means of trimming fat from a fee application.” *McDonald ex rel. Prendergast v. Pension Plan of the NYSA-ILA Pension Tr. Fund*, 450 F.3d 91, 96 (2d. Cir. 2006); accord *M.D. v. New York City Dept. of Educ.*, No. 17 Civ. 2417, 2018 WL 4386086, at *4 (S.D.N.Y. Sept. 14, 2018). In the Opinion, the Court adopted the Report’s recommendation to apply a fifty-percent reduction to attorney hours billed to the instant federal litigation for fees;

WHEREAS, in view of the federal fee litigation history, the total fees-on-fees requested is both “exorbitant” and the “time devoted” was “unnecessarily high.” Per the Opinion, Plaintiff was awarded attorneys’ fees in connection with the federal court litigation of \$16,833.50, as compared to the fee award of \$13,894.50 in connection with the underlying administrative proceeding. The same fifty-percent reduction shall apply to the hours requested in connection with preparing objections to the Report. Additionally, the time billed by Andrew Cuddy and Benjamin Kopp on January 13, 2021, in connection with a potential appeal -- 0.3 hours each -- is not credited. Accordingly, Plaintiff is awarded fees associated with preparing objections to the Report, based on the below calculation.

<u>Biller (Rate)</u>	<u>Hours</u>	<u>Total</u>
Andrew Cuddy (\$360.00/hr)	1.90 hours – 0.30 hours = 1.60 hours 1.60 hours x 50% = 0.8 hours	\$288.00

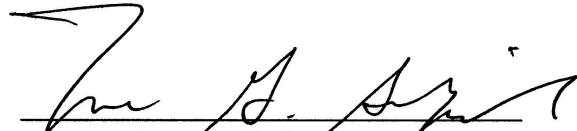
Benjamin Kopp (\$200.00/hr)	10.80 hours – 0.30 hours = 10.50 hours 10.50 hours x 50% = 5.25 hours	\$1,050.00
Shobna Cuddy (\$125.00/hr)	0.4 hours	\$50.00
<u>Total</u>		\$1,388.00

It is hereby

ORDERED that the award granted in the January 12, 2021, Opinion and Order is modified to include an additional \$1,388.00 in attorneys' fees for the time billed in connection with the Report. For clarity, Plaintiff is awarded attorneys' fees in the amount of \$32,116.00 and costs in the amount of \$582.76, for a total award of \$32,698.76 plus post-judgment interest calculated at the applicable statutory rate.

The Clerk of Court is respectfully directed to enter judgment in favor of Plaintiff as above and to close this action.

Dated: January 26, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE